

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
July 12, 2010

D057322 In re G. S., a Juvenile

Upon filing a written abandonment of appeal, the appeal is dismissed and the remittitur is ordered to issue immediately as to R.S. (Cal. Rules of Court, rule 8.244(c)(2).)

Court convened at 9:00 a.m.

Present: The Honorable Patricia Benke, Acting Presiding Justice, and
 The Honorable Associate Justices Judith Haller and Terry O'Rourke
Clerk: D. Moore

D055210 Calderon v. City of San Diego

Cause called on merits. Thomas R. Gill, Esq. argued for appellant.
David J. Karlin, Esq. argued for respondent. Mr. Gill replied. Cause to be submitted at a later date.

Court recessed at 9:45 a.m. to change panels.

New panel members: The Honorable Gilbert Nares, Acting Presiding Justice, and
 The Honorable Associate Justices Judith Haller and Terry O'Rourke

D0 56288 People v. Purscelley

Cause called on merits. Kevin D. Sheehy, Esq. argued for appellant.
Jennifer Gustafson, Certified Law Student, argued for respondent.
Mr. Sheehy replied. Cause submitted.

D055888 In re J.C. et al., juveniles

Cause called on merits. Kathleen M. Mallinger, Esq. argued for appellant,
C.C. Neale Gold, Esq. argued for appellant, J.C. Gary Seiser, Deputy County
Counsel, argued for respondent. Andrea St. Julian, Esq. argued for the children.
Ms. Mallinger replied. Ms. Gold replied. Cause submitted.

Court recessed at 10:45 a.m. to change panel members.

New panel members: The Honorable Judith Haller, Acting Presiding Justice, and
 The Honorable Associate Justices James McIntyre and Terry O'Rourke

D055885 Parker v. First Advantage Corporation et al.

Cause called on merits. Kenneth Baisch, Esq. argued for appellant.
Amy T. Wintersheimer, Esq. argued for respondent. Mr. Baisch replied.
Cause submitted.

Court recessed at 11:18 a.m. until 1:30 p.m.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
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July 12, 2010 (Continued)

Court reconvened at 1:30 p.m.

Present: The Honorable Patricia Benke, Acting Presiding Justice, and
The Honorable Associate Justices Richard Huffman and Gilbert Nares
Clerk: D. Moore

D055200 County of San Diego v. Gorham
Cause called on merits. Marina Linda Sota, Deputy Attorney General, argued for respondent. Linda Cianciolo, Esq. argued for appellant. Cause submitted.

Court recessed at 1:42 p.m. to change panel members.

New panel members: The Honorable Patricia Benke, Acting Presiding Justice, and
The Honorable Associate Justices Richard Huffman and Terry O'Rourke

D055143 Reynolds v. Yturalde
Cause called on merits. Bradley Robert Blamires, Esq. argued for appellant.
Hoyt E. Hart, Esq. argued for respondent. Mr. Blamires replied. Cause submitted.

D055139 People v. Kirkland
Cause called on merits. Laura G. Schaefer, Esq. argued for appellant.
Jordan Ferguson, Deputy Attorney General, argued for respondent.
Ms. Schaefer replied. Cause submitted.

D054992 Davenport v. Interactive Communications International, Inc., et al.
Cause called on merits. Alan L. Geraci, Esq. argued for appellant.
Wendy Albers, Esq. argued for respondent. Mr. Geraci replied. Cause submitted.

D055002 Raicevic v. Lopez et al.
Cause called on merits. Jerry D. Cluff, Esq. argued for appellant,
A. Raicevic. Charles B. Harris, Esq. argued for appellant, I. Raicevic.
Michael Henry Eisengart, Esq. argued for respondent. Mr. Cluff replied.
Cause submitted.

Court recessed at 2:52 p.m. until Tuesday, July 13, 2010 at 9:00 a.m.

D055773 People v. Tran
The judgment is affirmed. Irion, J.; We Concur: Huffman, Acting P.J., McIntyre, J.

D056560 In re J.J., a Juvenile
The judgment is affirmed. Nares, J.; We Concur: Benke, Acting P.J., O'Rourke, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

July 12, 2010 (Continued)

D057561 In re Gomez on Habeas Corpus

The petition is denied.

D056951 People v. Tate

The appeal People v. Tate (D056951) is dismissed in light of our disposition of the petition for writ of mandate (D057427).

D057427 Tate v. Superior Court of Imperial County/The People

Let a peremptory writ of mandate issue directing the superior court to (1) vacate its February 11, 2010 calculation of pre-sentence custody credits in case Nos. JCF24090 and JCF24658 and its March 8, 2010 order denying Tate's motion to correct credits; (2) recalculate Tate's pre-sentence custody credits in those cases according to the current version of section 4019, and (3) forward a copy of the amended abstract of judgment to the Department of Corrections and Rehabilitation. This opinion will be final immediately as to this court. (Cal. Rules of Court, rule 8.490(b)(3).) O'Rourke, J.; We Concur: Benke, Acting P.J., Huffman, J.

D057642 In re Ricchio on Habeas Corpus

The petition is denied without prejudice to refiling in San Diego County Superior Court.

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- D055855 People v. Fontnette**
The judgment is affirmed. Aaron, J.; We Concur: Huffman, Acting P.J., Nares, J.
- D055700 People v. Tran**
The judgment is affirmed. Benke, Acting P.J.; We Concur: Nares, J., Aaron, J.
- D056944 In re Castleman on Habeas Corpus**
The petition is denied.
- D057563 In re Daughtery on Habeas Corpus**
The petition is denied.
- D055719 Image 2000 Multimedia, Inc. et al. v Quin, as Trustee, etc./Quin, as Trustee, etc. v. Image 2000 Multimedia, Inc., et al.**
The judgments are reversed with directions to enter judgment for Landlord on the Option Case and to allow such further proceedings as may be appropriate, in the court's discretion, on the unlawful detainer action. Each party to bear its own costs. Huffman, Acting P.J.; We Concur: McIntyre, J., Irion, J.
- D055479 In re Aiden O., a Juvenile**
D056346 In re Aiden O., a Juvenile
(Consolidated cases) The orders are affirmed.
O'Rourke, J.; We Concur: Nares, Acting P.J., McIntyre, J.
- D054174 People v. Carrasco et al.**
The judgment is modified to reflect the imposition of a \$100 court security fee as to Nogales, and a \$60 court security fee as to Carrasco. The trial court is directed to correct the abstracts of judgment in accordance with these modifications, and to forward the corrected abstracts of judgment to the Department of Corrections and Rehabilitation. As so modified, the judgment is affirmed.
Aaron, J.; We Concur: Nares, Acting P.J., McDonald, J.
- D057575 Weatherspoon v. Superior Court of San Diego County/People**
The petition is denied.
- D056280 People v. Mesa**
The judgments of conviction are affirmed in part and reversed in part and remanded for further proceedings consistent with the views we have expressed. CERTIFIED FOR PUBLICATION. Benke, Acting P.J.; We Concur: Nares, J., Aaron, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
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July 13, 2010 (Continued)

D054322 People v. Auvil

The petition for rehearing is denied.

Court convened at 9:00 a.m.

Present: The Honorable Patricia Benke, Acting Presiding Justice, and
 The Honorable Associate Justices Gilbert Nares and James McIntyre
Clerk: D. Moore

D056824 People v. Duvall

Cause called on merits. Kelli Catlett, Deputy District Attorney, argued for appellant. Elisa A. Brandes, Esq. argued for respondent. Ms. Catlett replied. Cause submitted.

D056196 In re A.M. et al., juveniles

Cause called on merits. Cristina Lechman, Esq. argued for appellant, D.M. Wayne Gehring, Esq. argued for appellant, A.M. Tahra Broderson, Esq. argued for respondent. Ms. Lechman replied. Mr. Gehring replied. Cause submitted.

Court recessed at 10:10 a.m. until 1:30 p.m.

Court reconvened at 1:30 p.m.

Present: The Honorable Richard Huffman, Acting Presiding Justice, and
 The Honorable Associate Justices Gilbert Nares and Judith Haller
Clerk: D. Moore

D056514 In re D.N., a juvenile

D057141 In re D.N., a juvenile

Cause called on merits. Neil Trop, Esq. argued for appellant. Gary Seiser, Deputy Counsel, argued for respondent. Andrea St. Julian, Esq. argued for the minor. Mr. Trop replied. Cause submitted.

Court recessed at 2:00 p.m. to change panel members.

New panel members: The Honorable Richard Huffman, Acting Presiding Justice, and
 The Honorable Associate Justices Gilbert Nares and Terry O'Rourke

D055088 People v. Busser

Cause called on merits. Matthew Braner, Deputy Public Defender, argued for appellant. Carl Chaker, Certified Law Student, argued for respondent. Cause submitted.

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D055435 People v. Geter

Cause called on merits. Harry Zimmerman, Esq. argued for appellant.
Shane McDonough, Deputy Attorney General, argued for respondent.
Mr. Zimmerman replied. Cause submitted.

Court recessed at 2:31 p.m. to change panel members.

New panel members: The Honorable Richard Huffman, Acting Presiding Justice, and
The Honorable Associate Justices James McIntyre and Terry O'Rourke

D055532 Chapala Management Corporation v. Stanton et al.

Cause called on merits. Robert H. Lynn, Esq. argued for appellant.
Rian Jones, Esq. argued for respondent. Mr. Lynn replied. Cause submitted.

D055512 In re V.G., a juvenile

Cause called on merits. Alexander James Simpson, Esq. argued for appellant.
Christina Dinh, Deputy Attorney General, argued for respondent. Mr. Simpson
replied. Cause submitted.

Court adjourned at 3:25 p.m.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
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- D056507 In re C.L., a Juvenile**
The orders are confirmed.
Haller, J.; We Concur: Huffman, Acting P.J., McDonald, J.
- D055112 McClutchey v. Kimball**
The judgment of the trial court is reversed insofar as it awards McClutchey \$1,366,000.00 in damages for breach of contract, pursuant to the jury's verdict. The matter is remanded to the trial court. The trial court shall allow McClutchey to amend her complaint to set forth a trust claim conforming to proof. The trial court shall then conduct further proceedings, including the taking of additional evidence, as may be necessary, in order to determine whether McClutchey is entitled to relief with respect to the Costebelle property, and if so, in what form. The trial court shall then enter a new judgment addressing the parties' respective interests in the Costebelle property pursuant to the Costebelle Trust, and awarding McClutchey the \$134,000 in damages for breach of contract as determined by the jury, for her interest in assets other than the Costebelle property. The parties are to bear their own costs on appeal. Aaron, J.; We Concur: Benke, Acting P.J., McDonald, J.
- D055762 In re Marriage of Caldwell**
The order of the trial court is affirmed.
Aaron, J.; We Concur: Nares, Acting P.J., McDonald, J.
- D055297 Shapiro v. Shapiro**
The judgment is affirmed. Wife to recover her costs on appeal.
Benke, Acting P.J.; We Concur: Nares, J., Aaron, J.
- D057626 R&D Properties, LLC et al v. Superior Court of San Diego County/Geha**
The petition is denied.
- D055817 McCarthy v. Hyundai Motor America**
The order awarding McCarthy attorney fees of \$20,400 and costs of \$910 is affirmed. Hyundai to recover its costs on appeal.
Benke, Acting P.J.; We Concur: Nares, J., McDonald, J.
- D053687 People v. Dang**
The judgment is affirmed. McDonald, J.; We Concur: Benke, Acting P.J., Nares, J.
- D056176 In re Conservatorship of Camellia N.**
The order is affirmed. McDonald, Acting P.J.; We Concur: O'Rourke, J., Aaron, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
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July 14, 2010 (Continued)

D055736 Tang v. CS Clean Systems

The judgment is affirmed. CSAG is entitled to costs on appeal.
McDonald, J.; We Concur: Benke, Acting P.J., Nares, J.

D057547 Jackson v. Superior Court of San Diego County/Walker et al.

The petition for writ of mandate and response have been read and considered by Justices Benke, Huffman and O'Rourke. The petition is denied. The stay issued on June 22, 2010, is vacated.

D055633 People v. Hodge

The judgment is affirmed. Benke, Acting P.J.; We Concur: Haller, J., O'Rourke, J.

D055934 In re Leonardo R., a Juvenile

The judgment is affirmed. McDonald, J.; We Concur: Nares, Acting P.J., Haller, J.

D055467 People v. Ali

The judgment is affirmed. Irion, J.; We Concur: Nares, Acting P.J., O'Rourke, J.

D057541 Bedford v. California Department of Corrections and Rehabilitation

Because appellant did not timely pay the filing fee, the appeal is dismissed.

D056684 In re D.E. et al., Juveniles

The orders continuing juvenile court jurisdiction are reversed. The case is remanded for the court to vacate the orders continuing jurisdiction and to enter orders terminating jurisdiction.
Irion, J.; We Concur: Haller, Acting P.J., O'Rourke, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
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- D056458 In re Z.P., a Juvenile**
The orders are affirmed. Irion, J.; We Concur: Nares, Acting P.J., McIntyre, J.
- D055447 Jencks et al. v. DeHaven et al.**
The petition for rehearing is denied.
- D055474 Montoya v. Caputo**
The judgment is affirmed. Montoya shall recover his costs on appeal.
Nares, J.; We Concur: Benke, Acting P.J., McIntyre, J.
- D054559 People v. Gonzalez et al.**
The judgment is affirmed. McIntyre, J.; We Concur: Nares, Acting P.J., Haller, J.
- D057519 In re Hale on Habeas Corpus**
The petition is denied.
- D055888 In re J.C., Jr., et al., Juveniles**
We reverse the trial court's finding the Indian Child Welfare Act did not apply; in all other respects, the findings and orders are affirmed.
Haller, J.; We Concur: Nares, Acting P.J., O'Rourke, J.
- D055251 In re Jonathan M., a Juvenile**
The judgment is affirmed. McIntyre, J.; We Concur: Nares, Acting P.J., Aaron, J.
- D055976 Citizens for Responsible Equitable Environmental Development v. City of San Diego et al.**
The petition for rehearing is denied.
- D055262 People v. Neeley**
The petition for rehearing is denied.
- D055424 People v. Rodriguez**
The judgment is affirmed. McIntyre, J.; We Concur: Nares, Acting P.J., Aaron, J.
- D056708 In re Marriage of Hunter**
The appeal filed January 21, 2010, is dismissed because appellant did not timely deposit costs for preparing the record on appeal (Cal. Rules of Court, rules 8.122(c), 8.130(b), 8.140).

COURT OF APPEAL OF THE STATE OF CALIFORNIA
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DIVISION ONE

July 15, 2010 (Continued)

D054369 Nelson v. Pearson Ford Co.

We reverse the judgment finding Pearson Ford not liable to the backdating class under the ASFA and the CLRA. We reverse the remedies awarded to the insurance class under the ASFA and the UCL, and the permanent injunction issued under the UCL as to the insurance class. We reverse the judgment returning to Pearson Ford any sums remaining after the payment of all valid claims. In all other aspects, the judgment is affirmed. The matter is remanded to determine, consistent with the views expressed in this opinion, appropriate statutory remedies to: (1) both classes under the ASFA; (2) the insurance class under the ASFA and the UCL; and (3) the backdating class under the CLRA. On remand the trial court is directed to comply with Code of Civil Procedure section 384 as to both classes. The parties are to bear their own appeal costs. CERTIFIED FOR PUBLICATION.

McIntyre, J.; We Concur: McConnell, P.J., O'Rourke J.

D057584 People v. Meyer

The petition is denied.

D054139 Milan v. City of Holtville

The opinion filed June 23, 2010, is ordered certified for publication. The petition for rehearing is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
July 16, 2010

- D056937 In re Shaw on Habeas Corpus**
The petition is denied.
- D056661 People v. Rubidoux**
The judgment is affirmed. Haller, J.; We Concur: Nares, Acting P.J., O'Rourke, J.
- D055685 People v. Hayes**
The judgment is affirmed. Nares, Acting P.J.; We Concur: Haller, J., O'Rourke, J.
- D056681 Gonzales v. City of San Diego et al.**
Appellant's motion to vacate dismissal and reinstate appeal is granted. The order of dismissal is vacated and the appeal is reinstated.
- D056786 In re Jesus L., a Juvenile**
The judgment is affirmed. Aaron, J.; We Concur: Benke, Acting P.J., Huffman, J.
- D057696 In re Baker on Habeas Corpus**
The petition is denied.
- D055350 In re Tobacco Cases I**
The petition for rehearing is denied.
- D056496 Villegas v. Jeong**
Upon written request filed by appellant, the appeal is dismissed and the remittitur is ordered to issue immediately. (Cal. Rules of Court, rule 8.244(c)(2).)
- D057702 Winkler v. The Superior Court of San Diego County/People**
The petition is denied.
- D057317 In re Weaver on Habeas Corpus**
The petition is denied.
- D056380 Haefner v. Chico's FAS, Inc.**
Upon written stipulation filed by the parties to the appeal, the appeal is dismissed and the remittitur is ordered to issue immediately. (Cal. Rules of Court, rule 8.244(c)(2).) Each party to bear own costs on appeal.
- D057495 In re Rodriguez on Habeas Corpus**
The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
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DIVISION ONE
July 16, 2010 (Continued)

D057528 In re McKenzie on Habeas Corpus
The petition is denied.